

Application Serial No. 10/568,209
Reply to Office Action of January 6, 2009

PATENT
Docket: CU-4693

REMARKS

In the Office Action, dated January 6, 2009, the Examiner states that Claims 72-91 are pending, and Claims 72-91 are rejected. By the present Amendment, Applicant amends the claims and the specification.

In the Office Action, the Examiner objected to the specification. The Applicant has amended a typographical error in the specification. No new matter is added by way of this amendment. The Applicant submits that the amendments are fully responsive to the objection and respectfully requests that the Examiner withdraw this ground of objection as to the specification. The Brief Description of the Drawings section has also been amended to include a reference to new Figures 21-24 depicting the pump, power lead, and elongated body. There is support for these parts in the original disclosure, for instance on page 2 ¶[0030] and page 3 ¶[0034]. The specification in the Description of the Preferred Embodiments section has been amended to describe Figures 21-24. The amendment to the specification can be viewed in the Amendments section of this paper in the Amendments to the Specification beginning on page 2.

Please amend claims 72 and 84 for clarity. Typographical errors have been corrected by this amendment. No new matter has been added. The amendment to claims 72 and 84 can be viewed in the amendments section of this paper in the Listing of claims beginning on page 4.

In the Office Action, the Examiner also objected to the drawings under 37 CFR 1.83(a). In response, the Applicant has submitted amendments to the drawings on Replacement Sheets including an elongated body and a pump depicted as part numbers 102 and 104, respectfully. Since the amendments to the drawings are supported by the original disclosure, no new matter has been added by way of this amendment. The Applicant submits that the amendments to the drawings, presented herewith on replacement sheets, are fully responsive to the Examiner's objection and

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respectfully requests that the Examiner withdraw this ground of objection of the drawings.

Claims 72-74, 76-81 and 83-90 are rejected under 35 U.S.C. §103(a) as being unpatentable over Stone (GB 2,369,980) in view of Lund (5,555,676).

The Applicant respectfully disagrees because not all of the features of the claims are taught, suggested, or disclosed by the references.

The Applicant respectfully draws the Examiners attention to the emphasized portions of claim 72 as follows:

Claim 72

A plant pot which, in use, is adapted to be stacked with one or more similar plant pots, said plant pot comprising:

- a cavity defined by a bottom wall and a side wall of the plant pot;
- an overflow outlet adapted to enable excess liquid to flow out of said cavity;
- an elongated body;

a centrally located aperture adapted to have the elongated body pass through the bottom wall;

- a recess formed in the bottom wall opposite the cavity; and
- a pump located in the recess, the pump being in fluid communication with the elongated body.

Claim 72 has a combination of features including "a centrally located aperture adapted to have the elongated body pass through the bottom wall." (*Emphasis added.*) This feature is not found in Stone. Stone provides that "a container 10 comprises an upper, open compartment 12 and a lower enclosed compartment 14 separated by a dividing wall 24." (Stone page 4, paragraph 3; and also Figure 1.) The Lund disclosure does not cure the defect found in Stone.

In fact, given the recitation the Examiner relies on in Lund, column 4, lines 48-52, a person of skill in the art would not have a reasonable expectation of successfully combining Stone and Lund to achieve the invention claimed in Claim 72. Lund discloses that the water 60 is carried through the conduit 42 upwardly through a standpipe 20 into an upper reservoir 18. First, Stone discloses that the upper and lower compartments 12,14 are separated by a dividing wall 24, and therefore, a person skilled

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in the art would not be able to adapt the standpipe 20 of Lund through the bottom wall of the Stone container due to the presence of a separating dividing wall, let alone the absence of a central aperture. Second, the Lund device operates such that there is a lower reservoir 16 that pumps water 60 through a conduit 42 to an upper reservoir 18. Nowhere in Stone is there mentioned a centrally located aperture through which to deliver the water bearing conduit 42 of Lund, nor is there a configuration that can support the upper reservoir 18 as in Lund and which is operationally necessary for the operability of the Lund device. Water is not delivered from above the Stone device, but instead, a filling aperture is provided in the outer wall of the lower enclosed compartment 114. This configuration does not allow for an *above* the plant medium/soil reservoir, which is necessary for the Lund pump to effectively provide water to each container, including the top container, in the series. Third, even if the Stone device could be adapted to having a pump like that of Lund, Stone does not have a central aperture through which to pass the elongated body, as in claim 72.

The Applicant submits that since the references, in whole or in combination, do not disclose or suggest all of the features of claim 72, and since a person skilled in the art would not be able to successfully combine Stone and Lund to get the invention as claimed in claim 72, claim 72 is non-obvious and allowable. It is axiomatic that if an independent claim is allowable, then a claim dependant therefrom is likewise allowable. The Applicant respectfully request that the remarks made over claim 72 be both reflected in the dependant claims, 73-74, 76-81, and 83-90, and also overcome the rejection of those claims as well. The Applicant respectfully submits that claims 72-74, 76-81, and 83-90 are non-obvious and request that the Examiner withdraw this ground of rejection of these claims.

The Examiner also rejected claim 75 under 35 U.S.C. §103(a) as obvious over Stone in view of Lund and in further view of Russell (U.S. 61,877); claim 82 over Stone in view of Lund and further in view of Johnson, Sr. (U.S. 3,452,475); and claim 91 as unpatentable over Stone in view of Lund and further in view of Keats (WO 1998/056233). The Applicant respectfully submits that Stone and Lund, in whole or in

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combination, do not disclose or suggest all of the features of independent claim 72, and therefore, the fact remains that claim 72 is non-obvious and patentable and that the dependant claims are likewise non-obvious and patentable. The Applicant submits, therefore, that since claims 75, 82, and 91 depend from independent and allowable claim 72, claims 75, 82, and 91 are also non-obvious and patentable. The Applicant further respectfully requests that the Examiner withdraw this ground of rejection as to claims 75, 82, and 91.

In light of the foregoing response, all the outstanding objections and rejections are considered overcome. The Applicant respectfully submits that this application should now be in condition for allowance and respectfully requests favorable consideration.

Respectfully submitted,

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Date

Zareefa B. Flener

Attorney for Applicant
Zareefa B. Flener
c/o Ladas & Parry LLP
224 South Michigan Avenue
Chicago, Illinois 60604
(312) 427-1300
Reg. No. 52,896

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APPENDIX